Remarks:

Reconsideration of the application is requested.

Claims 1-6 and 10-22 remain in the application. Claim 12 has been amended. A marked-up version of the claim is attached hereto on a separate page. Claim 23 has been added, support for which can be found on page 9, lines 7-14. No new matter has been added.

In item 1 on page 2 of the above-identified Office action, claim 12 has been objected to because of the following informalities.

More specifically, the Examiner has stated that in claim 12, lines 1-2 the phrase "at least one transponder has" should be replaced with the phrase --a plurality of transponders have--, since claim 1 has been amended to require a plurality of transponders. Claim 12 has been amended so as to facilitate prosecution of the application. Therefore, the objection to claim 12 by the Examiner is now moot.

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call

during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic or clarificatory reasons. The changes are not provided for overcoming the prior art nor for any reason related to the statutory requirements for a patent.

In item 3 on page 2 of the Office action, claims 1-6 and 10-21 have been rejected as being obvious over Brewster et al. (GB 2 073 550 A) in view of the admitted prior art under 35 U.S.C. § 103.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1 and 13 call for, *inter alia*:

a plurality of transponders each attached to the textile carrier part, each having a respective electronic component, and each being associated with a respective one of the care symbols.

The Brewster et al. reference discloses an automatic sorter for sorting articles each bearing an electromagnetic transponder. Brewster et al. further disclose that laundry articles are composed of a variety of different natural and synthetic materials, which require different cleaning methods for best results and minimum damage (page 1, lines 78-81). Furthermore, Brewster et al. comments that the articles are apt to arrive at the laundry mixed indiscriminately in bundles, and must therefore be sorted by hand. Brewster et al. disclose that their invention can be applied to the performance of this function automatically without any human intervention (page 1, lines 81-88).

Brewster et al. further disclose that identification of the correct sequence for any given article may be simplified by providing the articles with a permanent label or tag defining the appropriate sequence and hence the route to be followed through the system. Such a label, even bearing only a simple color or number code, could assist the process of hand sorting, relieving the operator of the need to identify fabrics or read cleaning instructions. However, visual coding requires the article to be lifted or turned so as to bring the label into view, which therefore presents considerable difficulties for a fully automatic system (page 1, lines 93-104). Brewster et al. further disclose that a punch pattern on a substrate can be made to remain visible through the

casing to identify the route number to a human sorter in case of system failure. Alternatively, an external color may be used to serve this purpose (page 2, line 130 to page 3, line 4).

Applicant's admitted prior art discloses care labels made of textile or plastic strips or tabs, onto which care instructions in the form of symbols are printed, woven, or embroidered.

It is the Examiner's position as stated in the second paragraph on page 4 of the Office action, that in view of the admitted prior art, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the label of the admitted prior art, with the system and method as taught by Brewster et al.. Applicant respectfully disagrees with this position for the reasons set forth below.

As will be further explained below, the present invention is concerned with a different problem than the Brewster et al. reference. The present invention seeks to optimize the laundering process by coordinating the appropriate treatment operation in a household appliance with the laundry batch to be treated. This is different than the goal of Brewster et

al. reference, which seeks to automatically sort laundry prior to processing the items to be washed.

It is Applicant's position that not only is the combination not obvious but also that Brewster et al. teach away from the combination.

First, it is noted that Brewster et al. is concerned with the sorting of laundry by mechanical means prior to the items being cleansed, dried, ironed, etc.. Brewster is not concerned with individual processes but only a sorting of the laundry into compatible groups. Therefore, Brewster et al. is not concerned with individual laundering processes. This is contrary to the invention of the instant application which seeks to optimize the coordination of treatment operations with the laundry batch to be treated. According to the instant application, the transponders transmit information to corresponding household appliances. Therefore, the user does not have to take the time to enter the information for the care cycle of a particular appliance (page 7, lines 13-20). Furthermore, in the event that a user selects an unsuitable care program, the cycle will not be started or the user will be advised of the incorrect selection (page 8, lines 11-14). Since as noted above the present invention solves a different problem than the Brewster reference, and the fact that the present invention is not concerned with the automatic sorting

of items to be laundered, it is believed that the present invention is not obvious over Brewster et al. in view of applicant's admitted prior art.

Second, it is applicant's position that Brewster et al. teach away from the combination as proposed by the Examiner. Brewster et al. teach that their invention can be applied to the performance of sorting laundry automatically without any human intervention (page 1, lines 81-88). Brewster et al. even state that visual cleaning instructions require the article to be lifted or turned so as to bring the label into view to be read, therefore presenting considerable difficulties for a fully-automatic system (page 1, lines 100-105). Furthermore, Brewster et al. already provide a solution for sorting if the automatic sorter fails, that being a punched route number or an external color code visible to a human sorter. Since Brewster et al. seek to avoid the reading of individual care instructions by a human operator the reference teaches away from the rejection over Brewster et al. in view of applicant's admitted prior.

A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See In re Dembiczak,

175 F.3d 994, 999, 50 USPQ2d 1614,1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." Id. (quoting W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Most if not all inventions arise from a combination of old elements. See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453,1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. See id. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. See id. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the appellant. See In re Dance, 160 F.3d 1339, 1343, 48 USPQ2d 163.5, 1637 (Fed. Cir. 1998); In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125,1127 (Fed. Cir. 1984).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of

ordinary skill in the art, or, in some cases the nature of the problem to be solved. See Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. See WMS Gaming, Inc. v. International Game Tech., 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981) (and cases cited therein). Whether the examiner relies on an express or an implicit showing, the examiner must provide particular findings related thereto. See Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. Broad conclusory statements standing alone are not "evidence." Id. When an examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record. See In re Lee, 277 F-3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

Upon evaluation of the examiner's response, it is respectfully believed that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims. Accordingly, the examiner is requested to withdraw the rejection.

Since claims 1 and 13 are believed to be allowable, dependent claims 2-6, 10-12, and 14 -22 are believed to be allowable as well.

In item 4 on page 4 of the Office action, claim 22 has been rejected as being obvious over Brewster et al. (GB 2 073 550 A) as modified by the admitted prior art further in view of Tuttle et al. (U.S Patent No. 6,078,791) under 35 U.S.C. § 103. Tuttle et al. do not make up for the deficiencies of Brewster et al. in view of admitted prior. Since claim 13 is believed to be allowable, dependent claim 22 is believed to be allowable as well.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1 and 13. Claims 1 and 13 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claims 1 or 13, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-6 and 10-22 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone

call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Enclosed herewith is the fee in the amount of $18 for an additional independent claim.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner & Greenberg P.A., No. 12-1099.

Respectfully submitted,

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For Applicant(s)

AKD:cgm

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ZTP 98 P 2026 P

Marked-up version of the claims:

Claim 12 (amended). The product care label according to claim 1, wherein said [at least one transponder has] plurality of transponders have a synthetic resin encasing said electronic component.